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Navy Radioman Guilty of Spying For the Russians

Whitworth Is Convicted of Tax Fraud as Well

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SAN FRANCISCO, July 24 — A Federal jury today convicted a former Navy radioman, Jerry A. Whitworth, of espionage for his participation in a Soviet spy ring that the Government has called the most damaging espionage conspiracy in decades.

The jury deliberated 52 hours over 10 days before returning guilty verdicts on seven counts of espionage and five counts of tax fraud. The jury was unable to reach a verdict on an eighth espionage count.

Seated between his two defense attorneys, Mr. Whitworth, 46 years old, remained expressionless as the verdicts were read.

\$332,000 for Secret Data

Defense attorneys said later that they had not had time to talk with Mr. Whitworth about the possibility of an appeal.

In the trial, which began March 24, the defense acknowledged that Mr. Whitworth, in exchange for \$332,000, had stolen classified Navy cryptographic data and passed it to John A. Walker Jr., who has admitted heading a Soviet spy ring, and that he failed to report the money on his income tax returns.

At a news conference after the verdict, one of the defense attorneys, James Larson said, "Whatever Jerry Whitworth may have done, this trial should have been John Anthony Walker's. He is the acknowledged master spy of this espionage ring. The fact that the Government chose Jerry Whitworth as the example undermines the supposed deterrent effect that Government wishes to serve in this trial."

'Whitworth Most Damaging'

United States Attorney Joseph P. Russoniello said of Mr. Walker and Mr. Whitworth, "In terms of the relative culpability of these two actors, Whitworth is by far the most damaging."

William S. Farmer, the Assistant United States Attorney who headed the prosecution team, said the Government had produced "mountains of evidence that was so compelling that the

defense conceded that Jerry Whitworth was a spy and took the money."

Members of the jury said they would observe a 24-hour moratorium in refraining from comments about the verdict.

Federal District Judge John P. Vukasin Jr. set Aug. 28 for sentencing. Mr. Whitworth faces a maximum penalty of seven life terms in prison on the espionage convictions, plus 17 years for tax fraud. He could be fined a total of \$20,000.

The defense attorneys, Mr. Larson and Tony Tamburello, had asked the jury to acquit Mr. Whitworth of the espionage charges. They argued that he had not known that the stolen military data were being sold specifically to the Soviet Union, as charged in the indictment. The defense had argued Mr. Whitworth believed the materials were being sold to Israel and that their sale to an ally would not harm the United States.

The espionage count on which the jury could not agree charged Mr. Whitworth with stealing a classified document from the aircraft carrier Enterprise that was found in a search of his home. Defense attorneys had argued that the document, a portion of the Navy's wartime contingency plan for the Middle East, had been taken inadvertently.

Mr. Whitworth was accused of conspiring with his former Navy colleague, Mr. Walker, to steal the Navy's most highly classified cryptographic data over a 10-year period. Mr. Walker, a retired Navy warrant officer, confessed he had spied for the Soviet Union since 1968 and at various times had recruited people to aid his espionage activities, including members of his family.

In Baltimore last October he pleaded guilty to espionage, along with his son, Michael L. Walker, a former Navy yeoman. In exchange for a sentence of life in prison and a reduced sentence of 25 years in prison for his son, John Walker agreed to testify against Mr. Whitworth. Both Walkers are awaiting sentence.

John Walker's older brother, Arthur J. Walker, a retired Navy lieutenant commander, was found guilty in a non-jury trial in Norfolk last August of passing classified military data he stole from the military contractor for whom he worked and passing it to John Walker. He has been sentenced to life in prison.

Documents Implicated Whitworth

Mr. Whitworth was originally implicated in the activities of the spy ring in documents left by John Walker for his Soviet contacts at a site along a deserted road in rural Maryland on May 19, 1965. A subsequent search of Mr. Walker's home also produced stolen military data bearing Mr. Whitworth's fingerprints as well as incriminating notes in Mr. Whitworth's handwriting.

Mr. Whitworth retired from the Navy with the rank of chief petty officer in 1963. He was unemployed and living in a mobile home near Davis, Calif., with his wife, Brenda L. Reis, at the time of his arrest on June 3, 1985.

The 13-count indictment alleged that Mr. Whitworth began stealing Navy data that included keying materials that are used to reprogram the top-secret machines that encode and decode classified messages between Navy ships and their land bases. Naval officers and experts in Soviet intelligence testified that possession of these materials by a foreign nation with the technical capacity to intercept and store Navy messages could allow that nation to read them.

Mr. Whitworth was trusted with access to these materials and the safes in which they were kept as part of his job as a radioman with a top-secret security clearance.

Messages Also Stolen

He was also accused of taking wiring diagrams for the cryptography machines, information about the installation of the Navy's new satellite communications system and a large number of printed messages.

Because of the wording of the Government's indictment, Mr. Whitworth's intent, or "state of mind," as to the destination of the stolen data became the central issue for the jurors to decide.

The broad espionage statute under which the defendant was charged makes it illegal to deliver national defense information to any foreign country with intent to aid that country or injure the United States.

But the wording of the indictment specifically named the Soviet Union as the country Mr. Whitworth and Mr. Walker had conspired to aid.

The prosecutors objected when Judge Vukasin told attorneys he would instruct the jury that, to convict Mr. Whitworth, they must find he passed the materials to Mr. Walker with the knowledge they were destined for the Soviet Union. They argued that they need prove only violations of the underlying statute. Defense attorneys argued that once the prosecution chose to name the country of destination it was required to prove it.

The Government appealed Judge Vukasin's ruling, causing a one-week delay in the trial. The United States Court of Appeals for the Ninth Circuit considered the appeal but refused to order the judge to change the jury instruction.

The issue was a crucial one because, although John Walker testified about deciding to recruit Mr. Whitworth as a spy after concluding that he had "larceny in his heart," Mr. Walker said he had never told Mr. Whitworth explicitly that the materials were going to the Soviet Union.

Mr. Walker said he assumed Mr. Whitworth knew because "common sense" would tell a person experienced in the security measures taken with closely guarded cryptographic data that only the Soviet Union would have the vast technical resources needed to use it.

Prosecutors attempted to picture Mr. Whitworth as a man who willingly joined in espionage with Mr. Walker, whose flamboyant life style and play-boy image he admired, to finance the camera and computer equipment, fine wines, cars and other luxury items he desired.

After agents of the Internal Revenue Service testified that they had traced 10,000 canceled checks, cashiers checks and receipts to discover purchases of goods and unreported investments in commodities and real estate by Mr. Whitworth, the defense acknowledged that he had received money from Mr. Walker and had failed to report as income.

In the 11½ weeks of testimony in which more than 150 witnesses testified and 4,000 pieces of evidence were introduced, the defense lawyers did not challenge the allegation that Mr. Whitworth stole military secrets and passed them to Mr. Walker.

Instead, they portrayed Mr. Whitworth as a gullible and easily manipulated man whose life as a farm boy in Muldrow, Okla., abandoned by his father, had left him with deep emotional needs to sustain friendships at any cost.

This weakness was exploited by Mr. Walker, who deceived Mr. Whitworth into believing the stolen information was being sold to Israel, defense attorneys argued. The attorneys called Mr. Walker "the godfather of America's first family of espionage."

In closing argument to the jury, Mr. Larson, said that Mr. Whitworth had "always perceived Israel as under attack from its neighbors" and that this belief made him "susceptible to the pitch Mr. Walker gave, knowing his sympathies to Israel."